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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/550,259

09/21/2005

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Q90407

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23373 7590 03/27/2009  
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EXAMINER

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ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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In re application of :  
Hagiwara et al. : DECISION ON  
Serial No. 10/550,259 : PETITION  
Filed: September 21, 2005 :  
For: Tin-Doped Indium Oxide Fine Particle Dispersion, Method :  
For Manufacturing The Same, Interlayer Film For  
Laminated Glass With Heat Ray Blocking Properties  
By Using Said Dispersion, And Laminated Glass Therewith

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on February 20, 2009 to Withdraw Finality of the Office Action dated December 23, 2008.

Applicants assert that the finality of a first action after filing an RCE is improper. Applicant states that the claims presented in the Rule 114 Amendment are not drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment. Applicant cites MPEP 706.07(h) (VIII) and MPEP 706.06(b).

MPEP 706.07(h)(VIII) states that the action immediately subsequent to the filing of an RCE with a submission and fee under 37 CFR 1.114 may be made final only if the conditions set forth in MPEP § 706.07(b) are met.

MPEP 706.07(b) discusses when a final rejection may be proper on a first action.

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.<

A first Office action in a continuing or substitute application or an RCE may not be made final if it contains a new ground of rejection necessitated by the amendments to 35 U.S.C. 102(e) by the Intellectual Property and High Technology Technical Amendments of 2002 (Pub. L. 107-273, 116 Stat. 1758 (2002)).

A review of the record indicates that the final rejection made in the Office Action of December 23, 2008 was the same one made in the Office Action of August 28, 2008. The amendment filed on

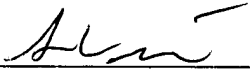
November 26, 2008 under 37 CFR 1.114 amended claims 1 and 14 and cancelled claim 8 which originally depended from claim 1. The limitation of claim 8 was placed into claim 1 and claim 14. Claims 2-5 depend from claim 1 and claims 15-17 depend from claim 14.

Applicant asserts that all the claims presented in the Rule 114 Amendment are not drawn to the same invention claimed in the application prior to entry of the Rule 114 Amendment. The scope of the dispersion stabilizers has been changed by the Rule 114 amendment.

## DECISION

Applicant's arguments being convincing, the petition for withdrawal of finality is **GRANTED**.

The response period will continue to run from the mail date of the office action of December 23, 2008



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